
Introduced by Senator Nguyen

February 26, 2015

An act to amend Section 110 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 558, as introduced, Nguyen. Property taxation: assessment: full cash value.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, existing property tax law defines "full cash value" as the assessor's fair market value valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law generally defines this "full cash value" of property as the property's "fair market value," and defines these terms to mean the amount of cash or its equivalent that property would bring if exposed for sale in the open market, as provided.

This bill would make a nonsubstantive change to that latter definition.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 110 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 110. (a) Except as is otherwise provided in Section 110.1, "full
- 4 cash value" or "fair market value" means the amount of cash or

1 its equivalent that property would bring if exposed for sale in the
2 open market under conditions in which neither buyer nor seller
3 could take advantage of the exigencies of the other, and both the
4 buyer and the seller have knowledge of all of the uses and purposes
5 to which the property is adapted and for which it is capable of
6 being used, and of the enforceable restrictions upon those uses and
7 purposes.

8 (b) For purposes of determining the “full cash value” or “fair
9 market value” of real property, other than possessory interests,
10 being appraised upon a purchase, “full cash value” or “fair market
11 value” is the purchase price paid in the transaction unless it is
12 established by a preponderance of the evidence that the real
13 property would not have transferred for that purchase price in an
14 open market transaction. The purchase price shall, however, be
15 rebuttably presumed to be the “full cash value” or “fair market
16 value” if the terms of the transaction were negotiated at arms length
17 between a knowledgeable transferor and transferee neither of which
18 could take advantage of the exigencies of the other. “Purchase
19 price,” as used in this section, means the total consideration
20 provided by the purchaser or on the purchaser’s behalf, valued in
21 money, whether paid in money or otherwise. There is a rebuttable
22 presumption that the value of improvements financed by the
23 proceeds of an assessment resulting in a lien imposed on the
24 property by a public entity is reflected in the total consideration,
25 exclusive of that lien amount, involved in the transaction. This
26 presumption may be overcome if the assessor establishes by a
27 preponderance of the evidence that all or a portion of the value of
28 those improvements is not reflected in that consideration. If a single
29 transaction results in a change in ownership of more than one
30 parcel of real property, the purchase price shall be allocated among
31 those parcels and other assets, if any, transferred based on the
32 relative fair market value of each.

33 (c) For real property, other than possessory interests, the change
34 of ownership statement required pursuant to Section 480, 480.1,
35 or 480.2, or the preliminary change of ownership statement
36 required pursuant to Section 480.4, shall give any information as
37 the board shall prescribe relative to whether the terms of the
38 transaction were negotiated at “arms length.” In the event that the
39 transaction includes property other than real property, the change
40 in ownership statement shall give information as the board shall

1 prescribe disclosing the portion of the purchase price that is
2 allocable to all elements of the transaction. If the taxpayer fails to
3 provide the prescribed information, the rebuttable presumption
4 provided by subdivision (b) shall not apply.

5 (d) Except as provided in subdivision (e), for purposes of
6 determining the “full cash value” or “fair market value” of any
7 taxable property, all of the following shall apply:

8 (1) The value of intangible assets and rights relating to the going
9 concern value of a business using taxable property shall not
10 enhance or be reflected in the value of the taxable property.

11 (2) If the principle of unit valuation is used to value properties
12 that are operated as a unit and the unit includes intangible assets
13 and rights, then the fair market value of the taxable property
14 contained within the unit shall be determined by removing from
15 the value of the unit the fair market value of the intangible assets
16 and rights contained within the unit.

17 (3) The exclusive nature of a concession, franchise, or similar
18 agreement, whether de jure or de facto, is an intangible asset that
19 shall not enhance the value of taxable property, including real
20 property.

21 (e) Taxable property may be assessed and valued by assuming
22 the presence of intangible assets or rights necessary to put the
23 taxable property to beneficial or productive use.

24 (f) For purposes of determining the “full cash value” or “fair
25 market value” of real property, intangible attributes of real property
26 shall be reflected in the value of the real property. These intangible
27 attributes of real property include zoning, location, and other
28 attributes that relate directly to the real property involved.